

Senate File 2367 - Introduced

SENATE FILE 2367

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3063)

A BILL FOR

1 An Act relating to sales, use, and motor vehicle fuel taxes
2 administered by the department of revenue including
3 distributions to local governments and school districts, the
4 liability of sellers, tax refund and tax credit incentives,
5 and motor fuel tax reporting modifications, and providing
6 penalties, and including effective date and applicability
7 provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

SALES, USE, AND EXCISE TAX — RETURNS DUE

Section 1. Section 9C.3, subsection 3, Code 2022, is amended to read as follows:

3. The application shall state whether or not the applicant has an Iowa retailers sales or use tax permit and if the applicant has such permit, shall state the number of such permit.

Sec. 2. Section 9C.5, Code 2022, is amended to read as follows:

9C.5 Issuance of license.

Upon receiving an application for a transient merchant's license, the secretary of state shall investigate or cause to be investigated, the reputation and character of the applicant. If, upon making such investigation, the secretary of state is satisfied that the statements and representations contained in the application are true, and that the applicant is of good reputation and character, and the holder of an Iowa ~~retailer's~~ sales or use tax permit, and if a foreign corporation, has authority to do business in the state of Iowa, the secretary shall issue to the applicant a license as a transient merchant upon payment of the fee as herein prescribed for the period of time requested in said application and for use at the location and place where it is stated in said application the sale will be held or the business conducted, both of which shall be set out in said license. Such license shall be valid only for the period of time and at the location and place described therein.

Sec. 3. Section 99G.30A, subsection 2, paragraph c, Code 2022, is amended to read as follows:

c. Frequency of deposits and ~~quarterly~~ monthly reports of the monitor vending machine excise tax with the department of revenue are governed by the tax provisions in [section 423.31](#). Monitor vending machine excise tax collections shall not be included in computation of the total tax to determine frequency of filing under [section 423.31](#).

1 Sec. 4. Section 321.105A, subsection 4, paragraph b, Code
2 2022, is amended to read as follows:

3 **b.** Section 422.25, subsection 4, sections 422.30, 422.67,
4 and 422.68, section 422.69, subsection 1, sections 422.70,
5 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
6 2, and sections 423.23, 423.24, 423.25, ~~423.32~~, 423.33, 423.35,
7 423.37 through 423.42, 423.45, and 423.47, consistent with the
8 provisions of this section, apply with respect to the fees
9 for new registration authorized under this section in the
10 same manner and with the same effect as if the fees for new
11 registration were retail use taxes within the meaning of those
12 statutes.

13 Sec. 5. Section 421.26, Code 2022, is amended to read as
14 follows:

15 **421.26 Personal liability for tax due.**

16 If a licensee or other person under section 452A.65, a
17 retailer or purchaser under chapter 423A, 423B, 423C, 423D,
18 or 423E, or section 423.14, 423.14A, 423.29, 423.31, ~~423.32~~,
19 or 423.33, or a user under section 423.34, or a permit holder
20 or licensee under section 453A.13, 453A.16, or 453A.44 fails
21 to pay a tax under those sections when due, an officer of a
22 corporation or association, notwithstanding section 489.304,
23 a member or manager of a limited liability company, or a
24 partner of a partnership, having control or supervision of
25 or the authority for remitting the tax payments and having
26 a substantial legal or equitable interest in the ownership
27 of the corporation, association, limited liability company,
28 or partnership, who has intentionally failed to pay the tax
29 is personally liable for the payment of the tax, interest,
30 and penalty due and unpaid. However, this section shall
31 not apply to taxes on accounts receivable. The dissolution
32 of a corporation, association, limited liability company,
33 or partnership shall not discharge a person's liability for
34 failure to remit the tax due.

35 Sec. 6. Section 423.2, subsection 1, paragraph b, Code 2022,

1 is amended to read as follows:

2 *b.* Sales of building materials, supplies, and equipment
3 to owners, contractors, subcontractors, or builders for the
4 erection of buildings or the alteration, repair, or improvement
5 of real property are retail sales of tangible personal property
6 in whatever quantity sold. Where the owner, contractor,
7 subcontractor, or builder is also a retailer holding a ~~retail~~
8 sales or use tax permit and transacting retail sales of
9 building materials, supplies, and equipment, the person shall
10 purchase such items of tangible personal property without
11 liability for the tax if such property will be subject to the
12 tax at the time of resale or at the time it is withdrawn from
13 inventory for construction purposes. The sales tax shall be
14 due in the reporting period when the materials, supplies,
15 and equipment are withdrawn from inventory for construction
16 purposes or when sold at retail. The tax shall not be due when
17 materials are withdrawn from inventory for use in construction
18 outside of Iowa and the tax shall not apply to tangible
19 personal property purchased and consumed by the manufacturer as
20 building materials in the performance by the manufacturer or
21 its subcontractor of construction outside of Iowa. The sale
22 of carpeting is not a sale of building materials. The sale of
23 carpeting to owners, contractors, subcontractors, or builders
24 shall be treated as the sale of ordinary tangible personal
25 property and subject to the tax imposed under [this subsection](#)
26 and the use tax.

27 Sec. 7. Section 423.3, subsection 39, paragraph a,
28 subparagraph (2), Code 2022, is amended to read as follows:

29 (2) The sale of all or substantially all of the tangible
30 personal property, or specified digital products, or services
31 held or used by a seller in the course of the seller's trade
32 or business for which the seller is required to hold a sales
33 or use tax permit when the seller sells or otherwise transfers
34 the trade or business to another person who shall engage in a
35 similar trade or business.

1 Sec. 8. Section 423.3, subsection 80, paragraph d, Code
2 2022, is amended to read as follows:

3 *d.* Subject to the limitations in paragraph “c”, where the
4 owner, contractor, subcontractor, or builder is also a retailer
5 holding a retail sales or use tax permit and transacting
6 retail sales of building materials, supplies, and equipment,
7 the tax shall not be due when materials are withdrawn from
8 inventory for use in construction performed for a designated
9 exempt entity if an exemption certificate is received from such
10 entity.

11 Sec. 9. Section 423.5, subsection 2, Code 2022, is amended
12 to read as follows:

13 2. The excise tax is imposed upon every person using
14 the property within this state until the tax has been paid
15 directly to the county treasurer, the state department of
16 transportation, a retailer, or the department. This tax is
17 imposed on every person using the services or the product of
18 the services in this state until the user has paid the tax
19 either to an Iowa sales or use tax permit holder or to the
20 department.

21 Sec. 10. Section 423.14, subsection 2, paragraph b, Code
22 2022, is amended to read as follows:

23 *b.* The tax upon the use of all tangible personal property
24 and specified digital products other than that enumerated in
25 paragraph “a”, which is sold by a seller who is a retailer or
26 its agent that is not otherwise required to collect sales tax
27 under the provisions of [this chapter](#), may be collected by the
28 retailer or agent and remitted to the department, pursuant to
29 the provisions of paragraph “e”, and [sections 423.24, 423.29,](#)
30 [423.30, 423.32](#) [423.31](#), and [423.33](#).

31 Sec. 11. Section 423.14A, subsection 3, paragraph c,
32 subparagraph (2), Code 2022, is amended to read as follows:

33 (2) A marketplace facilitator shall collect sales and
34 use tax on the entire sales price or purchase price paid by
35 a purchaser on each Iowa sale subject to sales and use tax

1 that is made or facilitated by the marketplace facilitator,
 2 regardless of whether the marketplace seller for whom an Iowa
 3 sale is made or facilitated has or is required to have a ~~retail~~
 4 sales or use tax permit or would have been required to collect
 5 sales and use tax had the sale not been facilitated by the
 6 marketplace facilitator, and regardless of the amount of the
 7 sales price or purchase price that will ultimately accrue
 8 to or benefit the marketplace facilitator, the marketplace
 9 seller, or any other person. This sales and use tax collection
 10 responsibility of a marketplace facilitator applies but shall
 11 not be limited to sales facilitated through a computer software
 12 application, commonly referred to as in-app purchases, or
 13 through another specified digital product.

14 Sec. 12. Section 423.31, subsections 1, 3, 5, and 6, Code
 15 2022, are amended to read as follows:

16 1. a. ~~Each~~ Except as provided in paragraph "b", each person
 17 subject to this section and section 423.36 and in accordance
 18 with the provisions of this section and section 423.36 shall,
 19 on or before the last day of the month following the close of
 20 each calendar ~~quarter~~ month during which such person is or
 21 has become or ceased being subject to the provisions of this
 22 section and section 423.36, make, sign, and file electronically
 23 a return for the calendar ~~quarter~~ month in the form as may be
 24 required. Returns shall show information relating to sales
 25 prices including tangible personal property, specified digital
 26 products, and services converted to the use of such person,
 27 the amounts of sales prices excluded and exempt from the tax,
 28 the amounts of sales prices subject to tax, a calculation of
 29 tax due, and any other information for the period covered by
 30 the return as may be required. Returns shall be signed by
 31 the retailer or the retailer's authorized agent and must be
 32 certified by the retailer to be correct in accordance with
 33 forms and rules prescribed by the director. A person required
 34 to file a sales or use tax return who is unable to do so may
 35 request permission from the director to file a return by

1 another method.

2 b. Notwithstanding paragraph "a", each person subject to
3 this section who collects and remits less than one thousand
4 two hundred dollars in sales or use tax to the department per
5 calendar year may file a return on or before the last day of the
6 month following the close of the calendar year.

7 ~~3. The sales tax forms prescribed by the director shall be~~
8 ~~referred to as "retailers tax deposit". Deposit forms shall~~
9 ~~be signed by the retailer or the retailer's duly authorized~~
10 ~~agent, and shall be duly certified by the retailer or agent to~~
11 ~~be correct. The director may authorize incorporated banks and~~
12 ~~trust companies or other depositories authorized by law which~~
13 ~~are depositories or financial agents of the United States,~~
14 ~~or of this state, to receive any sales or use tax imposed~~
15 ~~under this chapter, in the manner, at the times, and under~~
16 ~~the conditions the director prescribes. The director shall~~
17 ~~prescribe the manner, times, and conditions under which the~~
18 ~~receipt of the tax by those depositories is to be treated as~~
19 ~~payment of the tax to the department.~~

20 5. a. Upon making application and receiving approval
21 from the director, a person and its affiliates that make
22 retail sales of tangible personal property, specified digital
23 products, or taxable enumerated services may make deposits and
24 file a consolidated sales or use tax return for the affiliated
25 group, pursuant to rules adopted by the director. A person and
26 each affiliate that files a consolidated return are jointly and
27 severally liable for all tax, penalty, and interest found due
28 for the tax period for which a consolidated return is filed or
29 required to be filed.

30 b. A business required to file a consolidated sales or use
31 tax return shall file a form entitled "schedule of consolidated
32 business locations" with its ~~quarterly~~ sales or use tax
33 return that shows the taxpayer's consolidated permit number,
34 the permit number for each Iowa business location, the state
35 sales tax amount by business location, and the amount of state

1 sales tax due on goods consumed that are not assigned to a
2 specific business location. Consolidated ~~quarterly~~ sales or
3 use tax returns that are not accompanied by the schedule of
4 consolidated business locations form are considered incomplete
5 and are subject to penalty under [section 421.27](#).

6 6. If necessary or advisable in order to ~~insure~~ ensure
7 the payment of the tax, the director may require returns and
8 payment of the tax to be made for other than ~~quarterly~~ monthly
9 periods, the provisions of [this section](#) or other provision to
10 the contrary notwithstanding.

11 Sec. 13. Section 423.31, subsection 2, Code 2022, is amended
12 by striking the subsection.

13 Sec. 14. Section 423.33, subsection 1, paragraph a, Code
14 2022, is amended to read as follows:

15 a. If a purchaser fails to pay sales tax to the retailer
16 required to collect the tax, then in addition to all of the
17 rights, obligations, and remedies provided, a use tax is
18 payable by the purchaser directly to the department, and
19 sections 423.31, ~~423.32~~, [423.37](#), [423.38](#), [423.39](#), [423.40](#),
20 [423.41](#), and [423.42](#) apply to the purchaser.

21 Sec. 15. Section 423.33, subsection 3, Code 2022, is amended
22 to read as follows:

23 3. *Event sponsor's liability for sales tax.* A person
24 sponsoring a flea market or a craft, antique, coin, or stamp
25 show or similar event shall obtain from every retailer selling
26 tangible personal property, specified digital products, or
27 taxable services at the event proof that the retailer possesses
28 a valid sales or use tax permit or secure from the retailer
29 a statement, taken in good faith, that tangible personal
30 property, specified digital products, or services offered for
31 sale are not subject to sales tax. Failure to do so renders
32 a sponsor of the event liable for payment of any sales tax,
33 interest, and penalty due and owing from any retailer selling
34 property or services at the event. [Sections 423.31](#), ~~[423.32](#)~~,
35 [423.37](#), [423.38](#), [423.39](#), [423.40](#), [423.41](#), and [423.42](#) apply to the

1 sponsors. For purposes of *this subsection*, a *“person sponsoring*
 2 *a flea market or a craft, antique, coin, or stamp show or similar*
 3 *event”* does not include a marketplace facilitator as defined in
 4 section 423.14A, subsection 1, an organization which sponsors
 5 an event determined to qualify as an event involving casual
 6 sales pursuant to *section 423.3, subsection 39*, or the state
 7 fair or a fair as defined in *section 174.1*.

8 Sec. 16. Section 423.34, Code 2022, is amended to read as
 9 follows:

10 **423.34 Liability of user.**

11 Any person who uses any tangible personal property,
 12 specified digital products, or services enumerated in section
 13 423.2 upon which the use tax has not been paid, either to the
 14 county treasurer or to a retailer or direct to the department
 15 as required by *this subchapter*, shall be liable for the payment
 16 of tax, and shall on or before the last day of the month next
 17 succeeding each ~~quarterly~~ monthly period pay the use tax upon
 18 all tangible personal property, specified digital products,
 19 or services used by the person during the preceding ~~quarterly~~
 20 monthly period in the manner and accompanied by such returns
 21 as the director shall prescribe. All of the provisions of
 22 sections ~~423.32~~ 423.31 and *423.33* with reference to the returns
 23 and payments shall be applicable to the returns and payments
 24 required by *this section*.

25 Sec. 17. Section 423.36, subsection 4, paragraph b, Code
 26 2022, is amended to read as follows:

27 *b.* If an applicant is making sales outside Iowa for use in
 28 this state or furnishing services outside Iowa, the product
 29 or result of which will be used in this state, that applicant
 30 shall be issued one sales or use tax permit by the department
 31 applicable to these out-of-state sales or services.

32 Sec. 18. Section 423.36, subsection 4, Code 2022, is amended
 33 by adding the following new paragraph:

34 NEW PARAGRAPH. *c.* If an applicant is required to collect
 35 sales or use tax and is not included in the definition of a

1 retailer maintaining a place of business in this state in
2 section 423.1, subsection 48, paragraph "a", subparagraph (1),
3 the applicant shall be issued one sales or use tax permit by
4 the department regardless of the number of locations from which
5 sales are made.

6 Sec. 19. Section 423.36, subsections 7 and 8, Code 2022, are
7 amended to read as follows:

8 7. a. Sellers who are not regularly engaged in selling
9 at retail and do not have a permanent place of business, but
10 who are temporarily engaged in selling from trucks, portable
11 roadside stands, concessionaires at state, county, district,
12 or local fairs, carnivals, or the like, shall report and remit
13 the sales tax on a ~~temporary~~ seasonal basis, under rules
14 the director shall provide for the efficient collection of
15 the sales tax. This subsection applies to sellers who are
16 temporarily engaged in furnishing services.

17 b. Persons engaged in selling tangible personal property,
18 specified digital products, or furnishing services shall not
19 be required to obtain or retain a sales or use tax permit for a
20 place of business at which taxable sales of tangible personal
21 property, specified digital products, or taxable performance of
22 services will not occur.

23 8. The provisions of subsection 1, dealing with the lawful
24 right of a retailer to transact business, as applicable, apply
25 to persons having receipts from furnishing services enumerated
26 in section 423.2, except that a person holding a permit
27 pursuant to subsection 1 shall not be required to obtain any
28 separate sales or use tax permit for the purpose of engaging in
29 business involving the services.

30 Sec. 20. Section 423.40, subsections 1, 2, 3, and 5, Code
31 2022, are amended to read as follows:

32 1. In addition to the sales or use tax or additional sales
33 or use tax, the taxpayer shall pay a penalty as provided in
34 section 421.27. The taxpayer shall also pay interest on the
35 sales or use tax or additional sales or use tax at the rate

1 in effect under [section 421.7](#) for each month counting each
 2 fraction of a month as an entire month, computed from the date
 3 the ~~semimonthly or monthly tax deposit form or~~ return was
 4 required to be filed. The penalty and interest shall be paid
 5 to the department and disposed of in the same manner as other
 6 receipts under [this subchapter](#). Unpaid penalties and interest
 7 may be enforced in the same manner as the taxes imposed by this
 8 chapter.

9 2. *a.* Any person who knowingly sells tangible personal
 10 property, specified digital products, tickets or admissions
 11 to places of amusement and athletic events, or gas, water,
 12 electricity, or communication service at retail, or engages in
 13 the furnishing of services enumerated in [section 423.2](#), in this
 14 state without procuring a permit to collect tax, as provided
 15 in [section 423.36](#), or who violates [section 423.24](#) and the
 16 officers of any corporation who so act are guilty of a serious
 17 misdemeanor.

18 *b.* A person who knowingly sells tangible personal property,
 19 specified digital products, tickets or admissions to places of
 20 amusement and athletic events, or gas, water, electricity, or
 21 communication service at retail, or engages in the furnishing
 22 of services enumerated in [section 423.2](#), in this state after
 23 the person's sales or use tax permit has been revoked and
 24 before it has been restored as provided in [section 423.36](#),
 25 subsection 6, and the officers of any corporation who so act
 26 are guilty of an aggravated misdemeanor.

27 3. A person who willfully attempts in any manner to evade
 28 any tax imposed by [this chapter](#) or the payment of the tax or
 29 a person who makes or causes to be made a false or fraudulent
 30 ~~semimonthly or monthly tax deposit form or~~ return with intent
 31 to evade any tax imposed by [subchapter II](#) or [III](#) or the payment
 32 of the tax is guilty of a class "D" felony.

33 5. A person required to pay sales or use tax, or to make,
 34 sign, or file a ~~tax deposit form or~~ return or supplemental
 35 return, who willfully makes a false or fraudulent ~~tax deposit~~

1 ~~form or~~ return, or willfully fails to pay at least ninety
2 percent of the tax or willfully fails to make, sign, or file
3 the ~~tax deposit form or~~ return, at the time required by law, is
4 guilty of a fraudulent practice.

5 Sec. 21. Section 423.45, subsection 4, paragraph b, Code
6 2022, is amended to read as follows:

7 b. The sales tax liability for all sales of tangible
8 personal property and specified digital products and all sales
9 of services is upon the seller and the purchaser unless the
10 seller takes from the purchaser a valid exemption certificate
11 stating under penalty of perjury that the purchase is for a
12 nontaxable purpose and is not a retail sale as defined in
13 section 423.1, or the seller is not obligated to collect tax
14 due, or unless the seller takes a fuel exemption certificate
15 pursuant to [subsection 5](#). If the tangible personal property,
16 specified digital products, or services are purchased tax free
17 pursuant to a valid exemption certificate and the tangible
18 personal property, specified digital products, or services are
19 used or disposed of by the purchaser in a nonexempt manner, the
20 purchaser is solely liable for the taxes and shall remit the
21 taxes directly to the department and [sections 423.31, 423.32,](#)
22 [423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#) shall apply
23 to the purchaser.

24 Sec. 22. Section 423.45, subsection 5, paragraph c, Code
25 2022, is amended to read as follows:

26 c. The seller may accept a completed fuel exemption
27 certificate, as prepared by the purchaser, for three
28 years unless the purchaser files a new completed exemption
29 certificate. If the fuel is purchased tax free pursuant to a
30 fuel exemption certificate which is taken by the seller, and
31 the fuel is used or disposed of by the purchaser in a nonexempt
32 manner, the purchaser is solely liable for the taxes, and shall
33 remit the taxes directly to the department and [sections 423.31,](#)
34 [423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#)
35 shall apply to the purchaser.

1 Sec. 23. Section 423.50, subsection 1, Code 2022, is amended
2 to read as follows:

3 1. Only one remittance of tax per return is required ~~except~~
4 ~~as provided in this subsection.~~ Sellers that collect more
5 ~~than thirty thousand dollars in sales and use taxes for this~~
6 ~~state during the preceding calendar year shall be required to~~
7 ~~make additional remittances as required under rules adopted by~~
8 ~~the director. The filing of a return is not required with an~~
9 ~~additional remittance.~~

10 Sec. 24. Section 423.57, Code 2022, is amended to read as
11 follows:

12 **423.57 Statutes applicable.**

13 The director shall administer **this subchapter** as it relates
14 to the taxes imposed in **this chapter** in the same manner and
15 subject to all the provisions of, and all of the powers,
16 duties, authority, and restrictions contained in sections
17 423.14, **423.14A, 423.14B, 423.15, 423.16, 423.17, 423.19,**
18 **423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.29, 423.31,**
19 **423.32, 423.33, 423.34, 423.34A, 423.35, 423.37, 423.38,**
20 **423.39, 423.40, 423.41, and 423.42,** section 423.43, subsection
21 1, and **sections 423.45, 423.46, and 423.47.**

22 Sec. 25. Section 423.58, Code 2022, is amended to read as
23 follows:

24 **423.58 Collection, permit, and tax return exemption for**
25 **certain out-of-state businesses.**

26 Notwithstanding **sections 423.14, 423.14A, 423.14B, 423.29,**
27 **423.31, 423.32, and 423.36,** a person meeting the requirements
28 of **section 29C.24** is not required to obtain a sales or use tax
29 permit, collect and remit sales and use tax, or make and file
30 applicable sales or use tax returns, as provided in section
31 29C.24, subsection 3, paragraph "a", subparagraph (2).

32 Sec. 26. Section 423A.6, subsection 4, Code 2022, is amended
33 to read as follows:

34 4. **Section 422.25, subsection 4, sections 422.30, 422.67,**
35 **and 422.68, section 422.69, subsection 1, sections 422.70,**

1 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
 2 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33,
 3 423.35, 423.37 through 423.42, and 423.47, consistent with the
 4 provisions of this chapter, apply with respect to the taxes
 5 authorized under this chapter, in the same manner and with the
 6 same effect as if the state and local hotel and motel taxes
 7 were retail sales taxes within the meaning of those statutes.
 8 Notwithstanding this subsection, the director shall provide
 9 for ~~quarterly~~ monthly filing of returns and for other than
 10 ~~quarterly~~ monthly filing of returns both as prescribed in
 11 section 423.31. The director may require all persons who are
 12 engaged in the business of deriving any sales price subject
 13 to tax under this chapter to register with the department.
 14 All taxes collected under this chapter by a retailer, lodging
 15 provider, lodging facilitator, lodging platform, or any other
 16 person are deemed to be held in trust for the state of Iowa and
 17 the local jurisdictions imposing the taxes.

18 Sec. 27. Section 423B.5, subsection 3, Code 2022, is amended
 19 to read as follows:

20 3. A tax permit other than the state sales or use tax permit
 21 required under section 423.36 shall not be required by local
 22 authorities.

23 Sec. 28. Section 423B.6, subsection 2, paragraph c, Code
 24 2022, is amended to read as follows:

25 c. Frequency of deposits and ~~quarterly~~ monthly reports of a
 26 local sales and services tax with the department of revenue are
 27 governed by the tax provisions in section 423.31. Local tax
 28 collections shall not be included in computation of the total
 29 tax to determine frequency of filing under section 423.31.

30 Sec. 29. Section 423C.4, Code 2022, is amended to read as
 31 follows:

32 **423C.4 Administration and enforcement.**

33 All powers and requirements of the director of revenue
 34 to administer the state sales tax law under chapter 423 are
 35 applicable to the administration of the tax imposed under

1 section 423C.3, including but not limited to section 422.25,
 2 subsection 4, sections 422.30, 422.67, and 422.68, section
 3 422.69, subsection 1, sections 422.70 through 422.75, section
 4 423.14, subsection 1, and sections 423.15, 423.23, 423.24,
 5 423.25, 423.31, 423.33, 423.35 and 423.37 through 423.42,
 6 423.45, 423.46, and 423.47. However, as an exception to the
 7 powers specified in section 423.31, the director shall only
 8 require the filing of ~~quarterly~~ monthly reports.

9 Sec. 30. Section 423D.4, subsection 3, Code 2022, is amended
 10 to read as follows:

11 3. Section 422.25, subsection 4, sections 422.30, 422.67,
 12 and 422.68, section 422.69, subsection 1, sections 422.70,
 13 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
 14 1, and sections 423.23, 423.24, 423.25, 423.31 through
 15 423.35, 423.37 through 423.42, and 423.47, consistent with
 16 the provisions of this chapter, apply with respect to the tax
 17 authorized under this chapter, in the same manner and with the
 18 same effect as if the excise taxes on equipment sales or use
 19 were retail sales taxes within the meaning of those statutes.
 20 Notwithstanding this subsection, the director shall provide
 21 for ~~quarterly~~ monthly filing of returns and for other than
 22 ~~quarterly~~ monthly filing of returns both as prescribed in
 23 section 423.31. All taxes collected under this chapter by a
 24 retailer or any user are deemed to be held in trust for the
 25 state of Iowa.

26 Sec. 31. Section 423G.5, subsection 3, Code 2022, is amended
 27 to read as follows:

28 3. Section 422.25, subsection 4, sections 422.30, 422.67,
 29 and 422.68, section 422.69, subsection 1, sections 422.70,
 30 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection
 31 1, and sections 423.23, 423.24, 423.25, 423.31 through
 32 423.35, 423.37 through 423.42, and 423.47, consistent with the
 33 provisions of this chapter, shall apply with respect to the tax
 34 authorized under this chapter, in the same manner and with the
 35 same effect as if the excise taxes on the sale or furnishing of

1 a water service were retail sales taxes within the meaning of
 2 those statutes. Notwithstanding [this subsection](#), the director
 3 shall provide for ~~quarterly~~ monthly filing of returns and
 4 for other than ~~quarterly~~ monthly filing of returns both as
 5 prescribed in [section 423.31](#). All taxes collected under this
 6 chapter by a retailer or any user are deemed to be held in trust
 7 for the state of Iowa.

8 Sec. 32. Section 728.1, subsection 6, Code 2022, is amended
 9 to read as follows:

10 6. "*Place of business*" means the premises of a business
 11 required to obtain a sales or use tax permit pursuant to
 12 chapter 423, the premises of a nonprofit or not-for-profit
 13 organization, and the premises of an establishment which is
 14 open to the public at large or where entrance is limited by a
 15 cover charge or membership requirement.

16 Sec. 33. Section 728.5, subsection 1, unnumbered paragraph
 17 1, Code 2022, is amended to read as follows:

18 An owner, manager, or person who exercises direct control
 19 over a place of business required to obtain a sales or use tax
 20 permit shall be guilty of a serious misdemeanor under any of
 21 the following circumstances:

22 Sec. 34. REPEAL. Section 423.32, Code 2022, is repealed.

23 Sec. 35. IMPLEMENTATION — EMERGENCY RULES. The department
 24 of revenue may adopt emergency rules under section 17A.4,
 25 subsection 3, and section 17A.5, subsection 2, paragraph "b",
 26 to implement the provisions of this division of this Act and
 27 the rules shall be effective immediately upon filing unless
 28 a later date is specified in the rules. Any rules adopted
 29 in accordance with this section shall also be published as a
 30 notice of intended action as provided in section 17A.4.

31 Sec. 36. EFFECTIVE DATE. The following, being deemed of
 32 immediate importance, takes effect upon enactment:

33 The section of this division of this Act enacting emergency
 34 rules relating to the implementation of this division of this
 35 Act.

DIVISION II

DISTRIBUTIONS OF REVENUE TO LOCAL GOVERNMENTS AND SCHOOL
DISTRICTS

Sec. 37. Section 423B.7, subsection 2, paragraph a, Code 2022, is amended to read as follows:

a. The director of revenue by ~~August 15 of each fiscal year~~ the last day of each month shall ~~send~~ transfer to each city or county where the local option tax is imposed, ~~an estimate of the amount of tax moneys remitted to the department attributable to each city or county will receive for the year and for each month of the year from the preceding month. At the end of each month, the director may revise the estimates for the year and remaining months.~~

Sec. 38. Section 423B.7, subsection 2, paragraphs b and c, Code 2022, are amended by striking the paragraphs.

Sec. 39. Section 423F.2, subsection 4, paragraph a, Code 2022, is amended to read as follows:

a. The director of revenue by ~~August 15 of each fiscal year~~ the last day of each month shall ~~send~~ transfer to each school district ~~an estimate of the amount of tax moneys remitted to the department attributable to each school district will receive for the year and for each month of the year from the preceding month. At the end of each month, the director may revise the estimates for the year and remaining months.~~

Sec. 40. Section 423F.2, subsection 4, paragraph b, Code 2022, is amended by striking the paragraph and inserting in lieu thereof the following:

b. On or before August 15 of each fiscal year the director of revenue shall provide to each school district an estimate of the amount of tax moneys to be distributed to each school district for the current fiscal year.

Sec. 41. Section 423F.2, subsection 4, paragraph c, Code 2022, is amended by striking the paragraph.

Sec. 42. TRANSITION PROVISION FOR LOCAL OPTION SALES TAX
AND SECURING AN ADVANCED VISION FOR EDUCATION — TRANSFER

1 AMOUNTS. Notwithstanding any other provision of law to the
 2 contrary, the department of revenue shall estimate monthly
 3 local option sales tax and securing an advanced vision for
 4 education transfer amounts through the end of the 2022 calendar
 5 year. The department of revenue shall transfer estimated
 6 amounts to each local government or school district for the
 7 months of July, August, and September 2022. Beginning with the
 8 October 2022 transfer, the department shall not use estimated
 9 amounts and shall transfer the amount of tax attributable to
 10 each local government or school district for the tax remitted
 11 in September 2022. Any adjustment amount that is necessary to
 12 the July, August, or September 2022 estimated transfer amount
 13 to reflect the accurate attributable amount shall be made by
 14 the department of revenue or the local government or school
 15 district by the close of business on December 30, 2022.

16 DIVISION III

17 LIABILITY OF SELLERS USING CERTIFIED SERVICE PROVIDER

18 Sec. 43. Section 423.48, subsection 3, paragraph a, Code
 19 2022, is amended to read as follows:

20 a. A model 1 seller's obligation to calculate, collect, and
 21 remit sales and use taxes shall be performed by its certified
 22 service provider, except for the seller's obligation to remit
 23 tax on its own purchases. As the seller's agent, the certified
 24 service provider is liable for its model 1 seller's sales
 25 and use tax due Iowa on all sales transactions it processes
 26 for the seller except as set out in [this section](#). A seller
 27 that contracts with a certified service provider is not
 28 liable to the state for sales or use tax due on transactions
 29 processed by the certified service provider unless the seller
 30 ~~misrepresents the types of items or services it sells or~~
 31 ~~commits fraud~~ certified service provider establishes that
 32 the certified service provider is not liable in accordance
 33 with the agreement. In the absence of ~~probable cause to~~
 34 ~~believe that the seller has committed fraud or made a material~~
 35 ~~misrepresentation~~ liability relief established by the certified

1 service provider, the seller is not subject to audit on the
2 transactions processed by the certified service provider.
3 A model 1 seller is subject to audit for transactions not
4 processed by the certified service provider. The director is
5 authorized to perform a system check of the model 1 seller and
6 review the seller's procedures to determine if the certified
7 service provider's system is functioning properly and the
8 extent to which the seller's transactions are being processed
9 by the certified service provider.

10 DIVISION IV

11 AUTHORITY TO CANCEL VARIOUS PERMITS ISSUED BY THE DEPARTMENT

12 Sec. 44. Section 421.17, Code 2022, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 37. Notwithstanding any other provision
15 of law to the contrary, to cancel the following permits upon
16 verification by the department of revenue the permits are no
17 longer in use: income tax withholding, sales or use tax, or
18 motor fuel tax.

19 DIVISION V

20 ECONOMIC DEVELOPMENT AUTHORITY SALES AND USE TAX REFUND

21 INCENTIVES

22 Sec. 45. Section 15.331A, subsection 2, Code 2022, is
23 amended to read as follows:

24 2. To receive the refund, a claim shall be filed by the
25 eligible business with the department of revenue as follows:

26 a. The contractor or subcontractor shall state under oath,
27 on forms provided by the department of revenue, the amount of
28 the sales of tangible personal property or services rendered,
29 furnished, or performed including water, sewer, gas, and
30 electric utility services upon which sales or use tax has been
31 paid prior to the ~~project~~ contract completion, and shall file
32 the forms with the eligible business before final settlement
33 is made.

34 b. The eligible business shall, ~~not more than one year~~ after
35 ~~project~~ contract completion, make application to the department

1 of revenue for any refund of the amount of the sales and use
 2 taxes paid pursuant to [chapter 423](#) upon any tangible personal
 3 property, or services rendered, furnished, or performed,
 4 including water, sewer, gas, and electric utility services.
 5 The application shall be made in the manner and upon forms to
 6 be provided by the department of revenue, and the department of
 7 revenue shall audit the claim and, if approved, issue a warrant
 8 to the eligible business in the amount of the sales or use tax
 9 which has been paid to the state of Iowa under a contract. The
 10 application must be made within one year after the project
 11 completion date. A claim filed by the eligible business in
 12 accordance with [this section](#) shall not be denied by reason of a
 13 limitation provision set forth in [chapter 421](#) or [423](#).

14 c. The eligible business shall inform the department of
 15 revenue in writing after project contract completion. For
 16 ~~purposes of [this section](#), “project completion” means the~~
 17 ~~first date upon which the average annualized production of~~
 18 ~~finished product for the preceding ninety-day period at the~~
 19 ~~manufacturing facility operated by the eligible business is~~
 20 ~~at least fifty percent of the initial design capacity of the~~
 21 ~~facility.~~

22 Sec. 46. Section 15.331A, Code 2022, is amended by adding
 23 the following new subsection:

24 NEW SUBSECTION. 4. For purposes of this section, “*contract*
 25 *completion*” means the date of completion of a written contract
 26 relating to the construction or equipping of the facility that
 27 is part of the project of the eligible business.

28 Sec. 47. Section 15.331C, subsections 1 and 2, Code 2022,
 29 are amended to read as follows:

30 1. An In lieu of the sales and use tax refund provided
 31 in section 15.331A, an eligible business may claim a tax
 32 credit in an amount equal to the sales and use taxes paid by a
 33 third-party developer under [chapter 423](#) for gas, electricity,
 34 water, or sewer utility services, goods, wares, or merchandise,
 35 or on services rendered, furnished, or performed to or for a

1 contractor or subcontractor and used in the fulfillment of a
2 written contract relating to the construction or equipping of
3 a facility of the eligible business. Taxes attributable to
4 intangible property and furniture and furnishings shall not
5 be included, but taxes attributable to racks, shelving, and
6 conveyor equipment to be used in a warehouse or distribution
7 center shall be included. Any credit in excess of the tax
8 liability for the tax year may be credited to the tax liability
9 for the following seven years or until depleted, whichever
10 occurs earlier. An eligible business may elect to receive a
11 refund of all or a portion of an unused tax credit.

12 2. A third-party developer shall state under oath, on
13 forms provided by the department of revenue, the amount of
14 taxes paid as described in [subsection 1](#) and shall submit such
15 forms to the department of revenue. The taxes paid shall be
16 itemized to allow identification of the taxes attributable
17 to racks, shelving, and conveyor equipment to be used in a
18 warehouse or distribution center. The eligible business
19 shall make application to the department of revenue in the
20 manner and form prescribed by the department of revenue, and
21 within the time for applying for a sales and use tax refund
22 under section 15.331A. After timely receiving the form from
23 the third-party developer and application from the eligible
24 business, the department of revenue shall audit the claim
25 and, if approved, shall issue a tax credit certificate to the
26 eligible business equal to the sales and use taxes paid by a
27 third-party developer under [chapter 423](#) for gas, electricity,
28 water, or sewer utility services, goods, wares, or merchandise,
29 or on services rendered, furnished, or performed to or for a
30 contractor or subcontractor and used in the fulfillment of a
31 written contract relating to the construction or equipping
32 of a facility. The department of revenue shall also issue a
33 tax credit certificate to the eligible business equal to the
34 taxes paid and attributable to racks, shelving, and conveyor
35 equipment to be used in a warehouse or distribution center.

1 The aggregate combined total amount of tax refunds under
2 section 15.331A for taxes paid and attributable to racks,
3 shelving, and conveyor equipment to be used in a warehouse or
4 distribution center and of tax credit certificates issued by
5 the department of revenue under this section for the taxes paid
6 and attributable to racks, shelving, and conveyor equipment
7 to be used in a warehouse or distribution center shall not
8 exceed five hundred thousand dollars in a fiscal year. If
9 an applicant for a tax credit certificate does not receive
10 a refund or certificate for the taxes paid and attributable
11 to racks, shelving, and conveyor equipment to be used in a
12 warehouse or distribution center, the application shall be
13 considered in succeeding fiscal years. The eligible business
14 shall not claim a tax credit under **this section** unless a tax
15 credit certificate issued by the department of revenue is
16 included with the taxpayer's tax return for the tax year for
17 which the tax credit is claimed. A tax credit certificate
18 shall contain the eligible business's name, address, tax
19 identification number, the amount of the tax credit, and other
20 information deemed necessary by the department of revenue.

21 Sec. 48. Section 15.355, subsection 2, Code 2022, is amended
22 by striking the subsection and inserting in lieu thereof the
23 following:

24 2. *a.* A housing business may claim a refund of the sales
25 and use taxes paid under chapter 423 prior to the completion
26 of the housing project that are directly related to a housing
27 project and specified in the agreement.

28 *b.* To receive a refund, a claim shall be filed by the
29 housing business with the department of revenue as follows:

30 (1) The contractor or subcontractor shall state under oath,
31 on forms provided by the department of revenue, the amount
32 of sales and use taxes paid under chapter 423 prior to the
33 completion of the housing project that are directly related to
34 a housing project and specified in the agreement.

35 (2) The contractor or subcontractor shall file the forms

1 with the housing business before final settlement is made.

2 (3) (a) The housing business shall, after the agreement
3 completion date, make application to the department of revenue
4 for any refund of the amount of sales and use taxes paid under
5 chapter 423 prior to the completion of the housing project that
6 were directly related to a housing project and specified in the
7 agreement. The application shall be made in the manner and
8 upon forms to be provided by the department of revenue. The
9 department of revenue shall audit the claim and, if approved,
10 issue a warrant to the housing business. The application
11 must be made within one year after the agreement completion
12 date. A claim filed by the housing business in accordance with
13 this subsection shall not be denied by reason of a limitation
14 provision set forth in chapter 421 or 423.

(b) For purposes of this subparagraph, *"agreement completion date"* means the date on which the authority notifies the department of revenue that all applicable requirements of the agreement entered into pursuant to section 15.354, subsection 3, paragraph "a", and all applicable requirements of this part, including the rules the authority and the department of revenue adopt pursuant to section 15.356, are satisfied.

c. A contractor or subcontractor who willfully makes a false claim under oath in violation of the provisions of this subsection shall be guilty of a simple misdemeanor and in addition to any other penalty, the contractor or subcontractor shall be liable for the payment of the tax and any applicable penalty and interest.

28 Sec. 49. EFFECTIVE DATE. This division of this Act, being
29 deemed of immediate importance, takes effect upon enactment.

30 Sec. 50. APPLICABILITY. This division of this Act applies
31 to claims for refunds filed on or after the effective date of
32 this division of this Act.

DIVISION VI

MOTOR FUEL REPORTING REQUIREMENT — PENALTY

35 Sec. 51. Section 452A.33, subsection 1, paragraph c, Code

1 2022, is amended to read as follows:

2 c. (1) The retail dealer shall prepare and ~~submit~~ file
 3 the report with the department in a manner and according to
 4 procedures required by the department in compliance with
 5 section 452A.61. However, the department may require that the
 6 retail dealer file the report with the department by electronic
 7 transmission. The department may require that retail dealers
 8 report to the department on an annual, quarterly, or monthly
 9 basis. The department, upon application by a retail dealer,
 10 may grant a reasonable extension of time to file the report.
 11 (2) If a retail dealer fails to file the report as required
 12 by this section or fails to maintain records required to file
 13 the report the department may impose a civil penalty of not
 14 more than one hundred dollars per occurrence in addition to any
 15 other penalty provided by law. The penalty amount shall be
 16 deposited into the general fund of the state.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
 19 the explanation's substance by the members of the general assembly.

20 This bill relates to sales, use, and motor vehicle fuel
 21 taxes administered by the department of revenue including
 22 distributions to local governments and school districts, the
 23 liability of sellers, tax refund and tax credit incentives, and
 24 motor fuel tax reporting modifications.

25 DIVISION I — SALES, USE, AND EXCISE TAX — RETURNS DUE. The
 26 bill allows a taxpayer to have a combined sales and use tax
 27 permit and to file a combined return for sales and use taxes.
 28 Currently, a taxpayer must possess a separate sales and use tax
 29 permit and file separate sales and use tax returns.

30 The bill changes numerous references to the phrase "sales
 31 tax permit" in the Code to the phrase "sales or use tax
 32 permit".

33 Currently, a person is required to file a sales or use tax
 34 return on a quarterly basis. The bill changes this filing
 35 requirement from a quarterly basis to a monthly basis. The

1 bill does allow a person required to file a sales or use tax
2 return and who collects less than \$1,200 in sales or use tax in
3 a calendar year, to file a return once a year on or before the
4 last day of the month following the close of the calendar year.

5 The bill allows certain persons required to collect sales
6 or use tax who do not meet the definition of a "retailer
7 maintaining a business in this state" in Code section
8 423.1(48)(a)(1), to be issued only one sales or use tax permit.

9 The bill allows the director of revenue, if necessary, to
10 ensure the payment of sales or use tax, to require a sales or
11 use tax return be filed on a different basis other than on a
12 monthly basis.

13 The bill strikes a provision allowing a person required to
14 file a sales or use tax return to take a credit against the
15 total quarterly amount of tax due, upon a proper showing of
16 necessity, allowing for the balance of tax due to be paid up to
17 30 days after the return was due.

18 The bill strikes a provision requiring a seller, who
19 collects more than \$30,000 of sales or use tax in the preceding
20 calendar year, to make additional remittances to the state
21 under the rules adopted by the director of revenue.

22 The bill allows the department of revenue to adopt emergency
23 rules to implement the division. The emergency rules provision
24 takes effect upon enactment.

25 DIVISION II — DISTRIBUTIONS OF REVENUE TO LOCAL GOVERNMENTS
26 AND SCHOOL DISTRICTS. Currently, by August 15, the department
27 of revenue estimates the local option sale tax (LOST) and
28 securing an advanced vision for education (SAVE) tax amounts
29 that will be transferred to each local government or school
30 district on a fiscal year and monthly basis. The transfer
31 estimates may be revised for the year and remaining months by
32 the director of revenue if the estimates are incorrect.

33 Commencing with the fiscal year beginning July 1, 2022, the
34 bill changes the LOST and SAVE transfer amount procedures, by
35 requiring the department of revenue to transfer the actual

1 LOST and SAVE taxes collected that are attributable to each
2 local government or school district to that local government
3 or school district.

4 The bill also creates a transition procedure for the LOST
5 and SAVE tax amounts transferred during July and August 2022.
6 Under the transition procedure, the department of revenue shall
7 transfer estimated amounts of LOST and SAVE to each local
8 government or school district for the months of July, August,
9 and September 2022. However, beginning with the October 2022
10 transfer, the department of revenue shall transfer the actual
11 amount of tax attributable to each local government or school
12 district for the LOST and SAVE tax remitted in September 2022.
13 The bill requires any adjustment amount that is necessary to
14 the July, August, or September 2022 estimated transfer amounts
15 be made by the close of business on December 30, 2022.

16 DIVISION III — LIABILITY OF SELLERS USING CERTIFIED
17 SERVICE PROVIDER. The bill specifies that a seller of personal
18 property or services who contracts with a certified service
19 provider is not liable to the state for sales or use tax due on
20 transactions processed by the certified service provider unless
21 the certified service provider establishes it is not liable
22 in accordance with the agreement with the seller. The bill
23 specifies that if the certified service provider is liable for
24 the sales or use tax due, the seller is not subject to audit
25 on transactions processed by the certified service provider.
26 "Certified service provider" is defined in Code section 423.1
27 to mean an agent certified under the agreement to perform
28 all of a seller's sales or use tax functions, other than the
29 seller's obligation to remit tax on its own purchases.

30 DIVISION IV — AUTHORITY TO CANCEL VARIOUS PERMITS ISSUED
31 BY THE DEPARTMENT. The bill allows the director of the
32 department of revenue to cancel the following tax permits if
33 the department determines the permits are no longer in use:
34 income tax withholding, sales or use tax, or motor fuel tax.

35 DIVISION V — ECONOMIC DEVELOPMENT AUTHORITY SALES AND USE

1 TAX REFUND INCENTIVES. Currently, for certain sales or use
2 tax refund incentives in Code section 15.331A administered
3 by the department of economic development authority, an
4 eligible business must apply for a sales or use tax refund for
5 items purchased prior to the "project" completion date. The
6 bill changes the refund procedures by requiring an eligible
7 business to apply for such sales or use tax refunds for items
8 purchased prior to the completion of the "contract" rather than
9 completion of the "project". The bill also requires such an
10 application be made within one year of the project completion
11 date, and that the department of revenue be informed in writing
12 after the contract completion. The bill defines "contract
13 completion" as the date of completion of a written contract
14 relating to the construction or equipping of the facility that
15 is part of the project of the eligible business.

16 For the third-party developer tax credit in Code section
17 15.331C relating to a tax credit for sales and use taxes paid
18 by a third-party developer, the bill specifies that this credit
19 is in lieu of the sales and use tax refund tax incentive
20 provided in Code section 15.331A. The bill also provides
21 that the eligible business shall make an application to the
22 department of revenue within one year of the project completion
23 date, and that the department be informed in writing after
24 the contract completion. The bill requires the department
25 of revenue to audit any third-party developer tax credit
26 claim, prior to issuing a third-party developer tax credit
27 certificate.

28 The bill makes changes to the procedures for workforce
29 housing tax incentives in Code section 15.355. The bill
30 permits a housing business to claim a refund of the sales
31 and use taxes paid prior to the completion of the housing
32 project that are directly related to the housing project and
33 specified in an agreement. In order to receive the sales and
34 use tax refund, the bill requires a contractor or subcontractor
35 working on the housing project to submit a form under oath

1 stating the amount of sales and use taxes paid prior to the
2 housing project. The bill makes it a simple misdemeanor if a
3 contractor or subcontractor willfully makes a false claim under
4 oath in relating to the workforce sales and use tax refund.
5 The bill then requires, after the agreement completion date,
6 the housing business to make an application to the department
7 of revenue for any sales and use tax refund. The bill defines
8 "agreement completion date" to mean the date the economic
9 development authority notifies the department of revenue that
10 all applicable requirements of the agreement have been met.
11 The bill also requires the department of revenue to audit the
12 claim prior to issuing the sales and use tax refund.
13 This division takes effect upon enactment and applies to
14 claims for refunds filed on or after the effective date of the
15 bill.

16 DIVISION VI — MOTOR FUEL REPORTING REQUIREMENT — PENALTY.
17 The bill specifies that each motor fuel retail dealer shall
18 file a report with the department of revenue detailing their
19 total motor fuel gallonage within a reporting period in the
20 manner required by the department and in compliance within
21 the time frames established in Code section 452A.61. The
22 bill permits the department of revenue to require a retail
23 dealer to file such a report with the department by electronic
24 transmission. The bill allows the department of revenue to
25 impose a civil penalty on the retail dealer, not to exceed
26 \$100, for each instance a retail dealer fails to timely file
27 a report or fails to maintain records required to file the
28 report.